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12 **UNITED STATES DISTRICT COURT**

13 **NORTHERN DISTRICT OF CALIFORNIA**

14 SHAHID BUTTAR FOR CONGRESS  
15 COMMITTEE, et al.,

16 Plaintiffs,

17 vs.

18 HEARST COMMUNICATIONS, INC.,  
19 Defendant.

) Case No.: 3:21-cv-05566-EMC

) \_\_\_\_\_

)

) **BRIEF OF *AMICUS CURIAE* THE**  
) **CENTER FOR SECURITY, RACE AND**  
) **RELIGION AT RUTGERS LAW**  
) **SCHOOL**

)

) Hearing Date: December 15, 2022

) Time: 1:30 p.m.

) Place: via videoconference

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1 **INTEREST OF *AMICUS CURIAE*<sup>1</sup>**

2 The Center for Security, Race and Rights (“CSRR”) at Rutgers Law School engages in  
3 research, education, and advocacy on law and policy that adversely impact the civil and human  
4 rights of America’s diverse Muslim, Arab, and South Asian communities through an interfaith,  
5 cross-racial, and interdisciplinary approach. CSRR’s work encompasses three themes: the  
6 contemporary and historical intersection of race and religion in the United States;  
7 criminalization of Muslim identity through United States and global national security laws and  
8 policies; and transnational rights and security arising from relations between the United States  
9 and Muslim majority countries.<sup>2</sup>  
10

11 **SUMMARY OF ARGUMENT**

12 Islamophobia is pervasive and normalized in American society. Presumptions that  
13 Muslims are terrorists and anti-American have infected politics over the past twenty years.<sup>3</sup> One  
14 of the most pernicious Islamophobic stereotypes is that Muslim immigrant men are misogynistic  
15 and regularly engage in sexual misconduct. Such anti-Muslim stereotypes are taken as true by  
16 the public in large part because the media has perpetuated these stereotypes without  
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21 <sup>1</sup> Counsel for Plaintiffs consented to this brief via email. Counsel for Defendant indicated via  
22 email that they “do not consent to [the filing of the brief], but we do not plan to object to its  
23 filing.”

24 <sup>2</sup> *See Our Mission*, THE CENTER FOR SECURITY, RACE AND RELIGION, RUTGERS LAW SCHOOL,  
25 available at <https://csrr.rutgers.edu/about/our-mission/>.

26 <sup>3</sup> Sahar F. Aziz, *THE RACIAL MUSLIM: WHEN RACISM QUASHES RELIGIOUS FREEDOM* (2022);  
27 Khaled A. Beydoun, “*Muslims Bans*” and the (Re)Making of Political Islamophobia, ILL. L.  
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*Registry: The Precursor to Internment?*, 2017 B.Y.U. L. REV. 779 (2018).



consequence or accountability. The resulting Islamophobia causes tangible harm to Muslims' livelihoods, safety, and civil rights.<sup>4</sup>

A perverse feedback loop fuels Islamophobia. Politicians and pundits propagate anger and fear of Muslims, which the media often covers as clickbait.<sup>5</sup> As media publishes more anti-Muslim stories, negative public perceptions of Muslims solidify. Among the harms arising from biased journalism is defamation of high-profile Muslims. Muslims running for elected office are frequently targeted in Islamophobic smear campaigns, making the cost of political participation prohibitively high.<sup>6</sup> In a study examining the experiences of Muslim candidates who ran in the 2018 midterm elections, researchers found "a social media narrative of manufactured outrage

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<sup>4</sup> See, e.g., *Nationwide Anti-Mosque Activity*, AM. CIVIL LIBERTIES UNION (last updated Jan. 2022), available at <https://www.aclu.org/issues/national-security/discriminatory-profiling/nationwide-anti-mosque-activity>; *U.S. Muslims Concerned about Their Place in Society, but Continue to Believe in the American Dream*, PEW RESEARCH CTR. (July 26, 2017), available at <https://www.pewresearch.org/religion/2017/07/26/findings-from-pew-research-centers-2017-survey-of-us-muslims/>; Katayoun Kishi, *Assaults against Muslims in U.S. Surpass 2001 Level*, PEW RESEARCH CTR. (Nov. 15, 2017), available at <https://www.pewresearch.org/fact-tank/2017/11/15/assaults-against-muslims-in-u-s-surpass-2001-level>; *Federal Civil Rights Engagement with Arab and Muslim American Communities Post 9/11*, U.S. COMM'N ON CIVIL RIGHTS (Sept. 2014), available at [https://www.usccr.gov/files/pubs/docs/ARAB\\_MUSLIM\\_9-30-14.pdf](https://www.usccr.gov/files/pubs/docs/ARAB_MUSLIM_9-30-14.pdf).

<sup>5</sup> Savvas Zannettou, et al., *The Web of False Information: Rumors, Fake News, Hoaxes, Clickbait, and Various Other Shenanigans*, 11 J. DATA & INFO. QUALITY 1 (2019).

<sup>6</sup> Delaram Takyar, *When Interest Doesn't Turn into Action: Discrimination, Group Identification, and Muslim Political Engagement in the Post-9/11 Era*, 82 SOC. PSYCHOLOGY QUARTERLY 231–253 (2019); Sumayyah Waheed, *Why Do Elected Leaders Keep Getting a Pass on Anti-Muslim Hate?*, RELIGION NEWS SERV. (Dec. 8, 2021), available at <https://religionnews.com/2021/12/08/why-do-elected-leaders-keep-getting-a-pass-on-anti-muslim-hate>; Erin Snodgrass, *Rep. Rashida Tlaib Tearfully Shared Her Account of the Capitol Riots, Recalling Her Trauma of the Death Threats She's Received*, BUS. INSIDER (Feb. 5, 2021), available at <https://www.businessinsider.com/rashida-tlaib-broke-down-while-discussing-death-threats-shes-received-2021-2>; Lawrence Andrea, *Man Arrested in D.C. with Explosives Had Threatening Note Mentioning Rep. André Carson*, INDIANAPOLIS STAR (Jan. 12, 2021), available at <https://www.indystar.com/story/news/crime/2021/01/12/lonnie-coffman-included-rep-andre-carson-threatening-note/6644525002/>.

1 that was disproportionately Islamophobic, xenophobic, racist, and misogynistic.”<sup>7</sup> The  
2 disproportionately Islamophobic vitriol is likely to deter many Muslims from running for  
3 elected office, lest their professional and personal reputations be ruined.

4 While the media is certainly free to publish criticism of political candidates, it corrupts  
5 the political process and harms individuals’ reputations when news outlets publish false  
6 information that exploits and perpetuates racist stereotypes against minority candidates. Absent  
7 judicial accountability of media misconduct, the destructive Islamophobia feedback loop will  
8 continue, and American Muslims will remain at the margins of their country’s political system.

9 The public interest is served when the United States is a pluralistic and equitable nation  
10 that provides equal opportunity for minorities to run for political office without facing fallacious  
11 and racist attacks disproportionately targeted at them.

## 12 ARGUMENT

### 13 A. Islamophobia, including stereotypes that Muslim immigrant men are misogynistic 14 and engage in sexual misconduct, is pervasive and normalized in American society

15 *Islamophobia* is the dread, hatred, and hostility towards Islam and Muslims perpetrated  
16 by a series of closed views that imply and attribute negative and derogatory stereotypes and  
17 beliefs to Muslims.<sup>8</sup> Professor John Tehranian concisely summarizes the phenomena as:

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22 <sup>7</sup> Craig Timberg, *Twitter Fueled Attacks on Muslim Candidates in 2018, Study Finds*, WASH.  
23 POST (Nov. 4, 2019), available at [https://www.washingtonpost.com/business/economy/twitter-fueled-attacks-on-muslim-candidates-in-2018-study-finds/2019/11/04/be0bf432-ff51-11e9-9518-1e76abc088b6\\_story.html](https://www.washingtonpost.com/business/economy/twitter-fueled-attacks-on-muslim-candidates-in-2018-study-finds/2019/11/04/be0bf432-ff51-11e9-9518-1e76abc088b6_story.html); Lawrence Pintak, et al., *#Islamophobia: Stoking Fear and Prejudice in the 2018 Midterms*. SOCIAL SCI. RESEARCH COUNCIL (2019), available at <https://www.ssrc.org/publications/islamophobia-stoking-fear-and-prejudice-in-the-2018-midterms/>.

26 <sup>8</sup> Gordon Conway, *Islamophobia: A Challenge for Us All*, RUNNYMEDE TRUST (1997).

1 “[w]hen virtually every single piece of mainstream media that features Middle-Easterners  
2 inextricably involves themes of terrorism, violence, misogyny and/or religious extremism, one  
3 must conclude the presence of a systematic failure to portray Middle-Eastern peoples with  
4 accuracy.”<sup>9</sup>

5  
6 Numerous polls have shown a troublingly high rate of anti-Muslim bias in the United  
7 States. A 2006 Pew poll found that 40 to 60 percent of respondents in the U.S. and several  
8 Western European countries chose “violent” as a characteristic they associated with Muslims.<sup>10</sup>  
9 A 2006 USA Today/Gallup poll reported that 39 percent of Americans “felt at least some  
10 prejudice against Muslims” and 39 percent supported requiring Muslims, including U.S.  
11 citizens, to carry special identification.<sup>11</sup> The same poll found that 51 percent of Americans  
12 believed Muslims are not loyal to the United States and a quarter of Americans did not want a  
13 Muslim as a neighbor.<sup>12</sup> A 2010 poll by *Time* magazine found that 28 percent of voters reported  
14 that Muslims should not be eligible to serve on the U.S. Supreme Court, and nearly one-third  
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22 <sup>9</sup> John Tehranian, *The Last Minstrel Show?: Racial Profiling, the War on Terrorism and the*  
23 *Mass Media*, 41 CONN. L. REV. 781, 814 (2009).

24 <sup>10</sup> *Europe’s Muslims More Moderate: The Great Divide: How Westerners and Muslims View*  
25 *Each Other*, PEW RESEARCH CTR. 16 (2006), available at  
26 [https://www.pewresearch.org/global/2006/06/22/the-great-divide-how-westerners-and-muslims-](https://www.pewresearch.org/global/2006/06/22/the-great-divide-how-westerners-and-muslims-view-each-other)  
27 [view-each-other](https://www.pewresearch.org/global/2006/06/22/the-great-divide-how-westerners-and-muslims-view-each-other).

<sup>11</sup> Lydia Saad, *Anti-Muslim Sentiments Fairly Commonplace*, GALLUP (Aug. 10, 2006), available  
26 at <http://media.gallup.com/worldpoll/pdf/antimuslimsentiment81006.pdf>.

<sup>12</sup> *Id.*

believed Muslims should be barred from running for president.<sup>13</sup> More recently, a 2019 Gallup poll found that 33 percent of Americans would not vote for a Muslim presidential candidate.<sup>14</sup>

Such insidious anti-Muslim biases arise, in part, from a consistent dosage of Islamophobic stereotypes in media and film. For instance, one analysis of over 900 American films found that most portrayed Arabs and Muslims as “stock villains, blonde-lusting sheiks, maidens, or Egyptian or Palestinian terrorists”<sup>15</sup> rather than as everyday people with family and friends.<sup>16</sup>

A widespread Islamophobic stereotype is that Muslim immigrant men are misogynistic and regularly engage in sexual misconduct.<sup>17</sup> Islam is negatively portrayed as a threatening religion that encourages men to oppress women.<sup>18</sup> The media unquestioningly depicts Muslim men as distinctly sexist in nature, which adversely shapes public attitudes toward Muslims in

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<sup>13</sup> Amaney Jamal and Liali Albana, *Demographics, Political Participation, and Representation*, In Julianne Hammer and Omid Safi (Eds.), *THE CAMBRIDGE COMPANION TO AMERICAN ISLAM* (2013).

<sup>14</sup> Justin McCarthy, *Less Than Half in U.S. Would Vote for a Socialist for President*, GALLUP (May 9, 2019), available at <https://news.gallup.com/poll/254120/less-half-vote-socialist-president.aspx>.

<sup>15</sup> Tung Yin, *Jack Bauer Syndrome: Hollywood’s Depiction of National Security Law*, 17 S. CAL. INTERDISCIPLINARY L.J. 279 (2008).

<sup>16</sup> Sahar F. Aziz, *Sticks and Stones, the Words That Hurt: Entrenched Stereotypes Eight Years After 9/11*, 13 N.Y.C. L. REV. 33, 39 (2009).

<sup>17</sup> See Sabrina Alimahomed-Wilson, *When the FBI Knocks: Racialized State Surveillance of Muslims*, 45 CRITICAL SOCIOLOGY 871 (2018).

<sup>18</sup> Edward Said, *Islam through Western Eyes*, 26 THE NATION 14 (1980).

1 their daily lives.<sup>19</sup> Even if not guilty of terrorism, Muslim men are still framed as threatening:  
2 anti-American, misogynistic, and sexually deviant.<sup>20</sup>

3 The mainstreaming of these invidious stereotypes causes the public to take as true false  
4 publications about a Muslim male's alleged misconduct toward women.

5 **B. Islamophobic stereotypes perpetuated in the media harm Muslims' civil rights**

6 Islamophobia intensifies through a perverse feedback loop—the more anger toward and  
7 fear of Muslims that politicians and groups propagate, the more media coverage they receive.  
8 The negative media stories then increase suspicions that Muslims are aggressive and illiberal.<sup>21</sup>  
9 Media coverage shapes public perception.<sup>22</sup> Beyond describing the *who, what, where, when* of a  
10 story, the news are powerful systems of meaning that shape how societal reality is constructed  
11 and communicated to the public.<sup>23</sup>

12 After more than a decade of steady escalation, anti-Muslim media coverage reached an  
13 all-time high in 2015, according to the Media Tenor report “Coverage of Islam.”<sup>24</sup> Specifically,  
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17 <sup>19</sup> See generally Rochelle Terman, *Islamophobia and Media Portrayals of Muslim Women: A*  
18 *Computational Text Analysis of U.S. News Coverage*, 61 INT'L STUDIES QUARTERLY 489 (2017);  
19 Rochelle Terman, *The News Media Offer Slanted Coverage of Muslim Countries' Treatment of*  
20 *Women*, WASH. POST (May 5, 2017), available at  
<https://www.washingtonpost.com/news/monkey-cage/wp/2017/05/05/the-news-media-offer-slanted-coverage-of-muslim-countries-treatment-of-women/>.

21 <sup>20</sup> Evelyn Asultany, *Regulating Sympathy for the Muslim Man*, ARABS AND MUSLIMS IN THE  
22 MEDIA: RACE AND REPRESENTATION AFTER 9/11 128 (2012); Muniba Saleem, et al., *Exposure to*  
23 *Muslims in Media and Support for Public Policies Harming Muslims*, 46 COMMC'N RESEARCH  
24 841 (2017).

25 <sup>21</sup> Saleem, et al., *supra* note 20.

26 <sup>22</sup> *Social Communication and The Mass Policy Agenda*, In Michael Bruce MacKuen and Steven  
27 Lane Coombs (Eds.), MORE THAN NEWS: MEDIA POWER IN PUBLIC AFFAIRS 19 (1981).

28 <sup>23</sup> Hajar Yazdiha, *All the Muslims Fit to Print: Racial Frames as Mechanisms of Muslim*  
ETHNORACIAL FORMATION in the New York Times from 1992 to 2010, 6 SOCIOLOGY OF RACE AND  
ETHNICITY 501, 513 (2020).

<sup>24</sup> *Coverage of Islam*, MEDIA TENOR (2015).

1 the report found (1) in television media coverage of religious protagonists, over 80 percent  
2 covered Islam in a negative light; (2) in the United States, the United Kingdom, and Germany,  
3 nine out of ten articles about Islam were negative; (3) coverage of Muslim protagonists focused  
4 on the Islamic State and other “Islamist” terrorist networks (e.g., Al-Qaeda, Boko Haram,  
5 Taliban, al-Shabaab); (4) the increased coverage of mainstream Muslims tended to be negative  
6 (more than 50 percent of reports); and (5) the vast majority of stories on Islam or Muslims  
7 focused on war and conflict.<sup>25</sup>

9 To put media bias into perspective, a study released in 2015 by 416 Labs, a Toronto-  
10 based consulting firm, found that the *New York Times* portrayed Islam and Muslims more  
11 negatively than alcohol, cancer, and cocaine, among other benchmarked words.<sup>26</sup> News  
12 coverage of terrorism lacked balance, resulting in the propagation of stereotypes that Muslims  
13 are suspect, and Islam is incompatible with American values.<sup>27</sup>

15 Research shows that exposure to negative representations of Muslims in the media not  
16 only contributes to negative attitudes towards Muslims, but also causes Americans to support  
17 policies that harm Muslims internationally and domestically.<sup>28</sup> Newspaper coverage of Muslim  
18 women routinely emphasize women’s rights violations and gender inequality, constructing a  
19 frame of Muslim men as sexist and oppressive in nature.<sup>29</sup> Moreover, media outlets frequently

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22 <sup>25</sup> *Id.*

23 <sup>26</sup> *Are Muslims Collectively Responsible?*, 416 LABS (Nov. 2015).

24 <sup>27</sup> See Evelyn Alsultany, *Arabs and Muslims in the Media after 9/11: Representational Strategies for a “Postrace” Era*, 65 JOHNS HOPKINS UNIV. PRESS 161–69 (March 2013).

25 <sup>28</sup> Muniba Saleem, *Spreading Islamophobia: Consequences of Negative Media Representations*, INSTITUTE FOR SOCIAL POLICY & UNDERSTANDING (2017).

26 <sup>29</sup> Terman, *supra* note 18 Rochelle Terman, *Islamophobia and Media Portrayals of Muslim Women: A Computational Text Analysis of U.S. News Coverage*, 61 INT’L STUDIES QUARTERLY 489 (2017)

1 portray Muslims abroad as violent, aggressive, and misogynistic. Indeed, one scholar found  
2 “[s]tories about women in the Muslim world are usually centered about one particular issue—  
3 namely, gender inequality.”<sup>30</sup> This one-sided media coverage consequently “shap[es] attitudes  
4 toward Muslim minorities in the West because media consumers generally do not differentiate  
5 between Muslims at home and Muslims abroad.”<sup>31</sup>

7 In this environment, the public is primed to believe Islamophobic stereotypes—  
8 including that Muslim men are misogynistic—without looking at the specific facts of the case or  
9 inquiring into the credibility of the witnesses. This enables media to publish attack pieces  
10 against high profile Muslims without rigorous fact checking. Nor do media outlets fear their  
11 reputations will be harmed because it is almost taken as true that an immigrant Muslim man  
12 with a foreign name would be misogynistic or engage in sexual misconduct.

14 For example, U.S. media coverage of the 9/11 events was dominated by messages of  
15 fear and anger originating from press releases of fringe anti-Muslim organizations rather than  
16 mainstream civil society groups with more moderate messages.<sup>32</sup> Similarly, in the late 2000s,  
17 when an Islamic community center in New York City was being considered for construction,  
18 individuals who paid more attention to the anti-Muslim press coverage were more likely to

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21 <sup>30</sup> Rochelle Terman, *The News Media Offer Slanted Coverage of Muslim Countries’ Treatment of*  
22 *Women*, WASH. POST (May 5, 2017), available at  
23 <https://www.washingtonpost.com/news/monkey-cage/wp/2017/05/05/the-news-media-offer-slanted-coverage-of-muslim-countries-treatment-of-women/>.

24 <sup>31</sup> Terman, *supra* note 19, at 490; see also *Social Communication and The Mass Policy Agenda*,  
25 In Michael Bruce MacKuen and Steven Lane Coombs (Eds.), MORE THAN NEWS: MEDIA POWER  
IN PUBLIC AFFAIRS 19 (1981).

26 <sup>32</sup> Christopher Bail, *The Fringe Effect: Civil Society Organizations and the Evolution of Media*  
27 *Discourse about Islam Since the September 11th Attacks*, 77 AM. SOCIOLOGICAL REV. 855  
(2012).

1 believe that Islam is a religion of violence and that Muslims should not have the same rights as  
2 other religious groups.<sup>33</sup>

3       Such exposure contributes to stereotypical beliefs by strengthening mental linkages  
4 between social groups and biased attributes.<sup>34</sup> Once these mental connections are established,  
5 they can be activated by subsequent exposure to stereotypical media cues, thereby solidifying  
6 racial or ethnic prejudice.<sup>35</sup> In this way, media coverage can highlight and shape a story related  
7 to Muslims and Islam that portrays women as victims of violence and sexism brought on by a  
8 culture of angry and misogynist men.<sup>36</sup> Muslim men pay the price in their individual lives  
9 through presumptions of guilt when accused of misogyny, even when the evidence is  
10 uncorroborated.  
11

12 **C. Media corrupts the political process when it publishes false information that**  
13 **buttresses racist stereotypes against minority candidates**  
14

15       While the media should be free to criticize the policy positions of all candidates, it  
16 corrupts the political process when it publishes false information that exploits and perpetuates  
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20 <sup>33</sup> Christine Ogan, et al., *The Rise of Anti-Muslim Prejudice: Media and Islamophobia in Europe and the United States*, 76 INT'L COMMC'N GAZETTE 27, 42 (2014).

21 <sup>34</sup> Florian Arendt and Temple Northup, *Effects of Long-Term Exposure to News Stereotypes on Implicit and Explicit Attitudes*, 9 INT'L J. COMMC'N 732 (2015).

22 <sup>35</sup> Anita Atwell Seate and Dana Mastro, *Exposure to Immigration in the News: The Impact of Group-Level Emotions on Intergroup Behavior*, 44 COMMC'N RESEARCH 817 (2017); Jörg Matthes and Desirée Schmuck, *The Effects of Anti-Immigrant Right-Wing Populist Ads on Implicit and Explicit Attitudes: A Moderated Mediation Model*, 44 COMMC'N RESEARCH 556 (2017); David Schieferdecker and Hartmut Wessler, *Bridging Segregation via Media Exposure? Ingroup Identification, Outgroup Distance, and Low Direct Contact Reduce Outgroup Appearance in Media Repertoires*, 67 J. COMMC'N 993 (2017).

26 <sup>36</sup> Todd H. Green, *THE FEAR OF ISLAM: AN INTRODUCTION TO ISLAMOPHOBIA IN THE WEST* 240 (2015).  
27



1 racist stereotypes against minority candidates.<sup>37</sup> When readers are primed to believe Muslim  
2 men are misogynistic, published false allegations of sexual misconduct are presumed to be true.  
3 This makes fact checking and including the candidate’s response even more crucial. Moreover,  
4 “[w]hen Muslims feel that the media are biased against them, they are more likely to feel lower  
5 trust in government, to feel lower identification with their national communities, and to feel a  
6 greater affiliation to an imagined global Muslim community.”<sup>38</sup>  
7

8         The American political system is based on the principal of equal opportunity for all to  
9 participate in the process, up to and including running for elected office. When media publish  
10 false and racist stories about candidates belonging to a community whose members are already  
11 perceived as dangerous outsiders, it not only harms the candidates’ reputation but also  
12 contributes to the exclusion of that minority group from the political process. In the context of  
13 defamation, a victim’s right to recovery for defamation trumps the defamer’s First Amendment  
14 interests because when it comes to defamatory falsehoods, “the truth rarely catches up with a  
15 lie” so the “opportunity for rebuttal seldom suffices to undo harm.” *United States v. Alvarez*,  
16 617 F.3d 1198, 1211 (9th Cir. 2010), *aff’d*, 567 U.S. 709 (2012) (quoting *Gertz v. Robert*  
17 *Welch, Inc.*, 418 U.S. 323, 344 n.9 (1974)). Media stories that repeat false claims without  
18 sufficient inquiry into their veracity or accuracy do so with a reckless disregard for what  
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22 <sup>37</sup> *Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 341 (1974) (“The need to avoid self-censorship by  
23 the news media is, however, not the only societal value at issue. If it were, this Court would have  
24 embraced long ago the view that publishers and broadcasters enjoy an unconditional and  
25 infeasible immunity from liability for defamation.”); *Nevada State J. Pub. Co. v. Henderson*,  
294 F. 60, 63 (9th Cir. 1923) (“Neither the newspaper nor the citizen may with impunity falsely  
charge the candidate or the public officer with specific acts of criminality or shameful  
misconduct.”).

26 <sup>38</sup> Erik Bleich and Maurits van der Veen, COVERING MUSLIMS: AMERICAN NEWSPAPERS IN  
27 COMPARATIVE PERSPECTIVE 7 (2022).

1 viewers or readers would interpret as defamatory. See *Khawar v. Globe Int'l, Inc.*, 19 Cal. 4th  
2 254, 276, 965 P.2d 696, 709 (Cal. 1998), *as modified* (Dec. 22, 1998) (citing *Harte-Hanks*  
3 *Commc'ns v. Connaughton*, 491 U.S. 657, 682 (1989) (“Although failure to investigate will not  
4 alone support a finding of actual malice, . . . the purposeful avoidance of the truth is in a  
5 different category.” (citations omitted))).

6  
7 In a media environment where increased consumption translates into increased profits,  
8 the primary goal of news may not be accurate reporting. Instead, editors may focus on coverage  
9 more likely to draw in and keep audiences for longer periods of time.<sup>39</sup> This occurs through  
10 overrepresentation of Muslims as terrorists, or highlighting interracial, interethnic, or interfaith  
11 conflict.<sup>40</sup> “If the goal is to maximize an audience (and therefore ad revenue) already facing a  
12 glut of down-the-middle serious news, then the trick is to hype and promote any kind of row to  
13 get a huge influx of partisan readers,” says James Ball in his 2017 book on fake news.<sup>41</sup> “If a  
14 story is going to go unchecked . . . why not make it up entirely and reduce costs even further?”<sup>42</sup>

15  
16 In the case of Muslims, candidates are unfairly disadvantaged because false and  
17 defamatory media coverage is rarely questioned in a society where anti-Muslim bias is  
18 prevalent. That is, Muslims seeking to run for elected office do not have access to a fair playing  
19 field when the media perpetuate Islamophobia through fallacious stories.<sup>43</sup> Furthermore, the  
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22 <sup>39</sup> Travis L. Dixon and Daniel Linz, *Race and the Misrepresentation of Victimization on Local*  
23 *Television News*, 27 COMM'C'N RESEARCH 547 (2000).

24 <sup>40</sup> Travis L. Dixon and Charlotte L. Williams, *The Changing Misrepresentation of Race and*  
25 *Crime on Network and Cable News*, 65 J. COMM'C'N 24, 34 (2015).

26 <sup>41</sup> James Ball, POST-TRUTH: HOW BULLSHIT CONQUERED THE WORLD 11 (2017).

27 <sup>42</sup> *Id.*

28 <sup>43</sup> R. Kelly Garrett, Erik C. Nisbet, and Emily K. Lynch, *Undermining the Corrective Effects of*  
*Media-Based Political Fact Checking? The Role of Contextual Cues and Naïve Theory*, 63 J.  
COMM'C'N 617, 620 (2013) (“Naïve theories which imply that a group, whether it is defined by

1 harm is not only individual for that particular candidate, but collective. Even when voters do *not*  
2 condone these stereotypes, they may unintentionally and without their awareness rely on  
3 stereotypes when forming judgments of political candidates.<sup>44</sup>

4 At best, the long-term result is severe under-representation of citizens from America's  
5 third largest faith group. At worst, the result is the exclusion of Muslims from elected office.<sup>45</sup>  
6 Free speech laws are intended to encourage robust public debate based on facts, not false  
7 information perpetuating Islamophobic stereotypes.  
8

### 9 CONCLUSION

10 For the reasons set forth above, the undersigned respectfully urge the Court to reject  
11 Defendant's motion to dismiss.

12 DATED: October 27, 2022

Respectfully submitted,

14 **THE CENTER FOR SECURITY, RACE AND  
RELIGION—RUTGERS LAW SCHOOL**

15 By: /s/ Sahar F. Aziz

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20  
21 religion, race, ideology, or something else, threatens the dominant social order can be  
particularly powerful.”).

22 <sup>44</sup> Adam J. Berinsky and Tali Mendelberg, *The Indirect Effects of Discredited Stereotypes in*  
23 *Judgments of Jewish Leaders*, 49 AM. J. POLITICAL SCI. 845 (2005); Nayda Terkildsen, *When*  
24 *White Voters Evaluate Black Candidates: The Processing Implications of Candidate Skin Color,*  
25 *Prejudice, and Self-Monitoring*, 37 AM. J. POLITICAL SCI. 1032–53 (1993); Nicholas A.  
Valentino, Vincent L. Hutchings and Ismail K. White, *Cues That Matter: How Political Ads*  
*Prime Racial Attitudes During Campaigns*, 96 AM. POLITICAL SCI. REV. 75 (2002).

26 <sup>45</sup> Michael Lipka, *Muslims and Islam: Key Findings in the U.S. and Around the World*, PEW  
27 RESEARCH CTR. (2015), available at <http://www.pewresearch.org/fact-tank/2015/12/07/muslims-and-islam-key-findings-in-the-u-s-and-around-the-world>.

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4 **CIVIL LOCAL RULE 5-1(i)(3) ATTESTATION**

5 I hereby attest that concurrence in the filing of this document has been obtained from  
6 each of the other signatories hereto.

7 Dated: October 27, 2022

By: /s/ Sahar F. Aziz

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